

SENATE BILL NO. 1109

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This sentence is marked with bold and underline to show added text.

~~*This sentence is marked with*~~

~~*striketthrough and italic,*~~

~~*indicating text to be*~~

~~*removed.*~~

Bill Status

S1109.....by COMMERCE AND HUMAN RESOURCES
REAL ESTATE COMMISSION - Amends existing law relating to the Real Estate
Commission to revise definitions; to remove certain license requirements;
to revise provisions applicable to changes in personal information; to
revise language providing for the effective date of license issuance and
requested changes; to set forth provisions relating to license
certificates; to revise provisions applicable to fees; to revise continuing
education requirements; to revise duties and requirements of certified
course providers; to revise provisions relating to the main office of a
business location; to remove language providing for the display of licenses
and return of license certificates; to revise certification requirements
for instructors; to provide that ledger records shall be kept in
alphabetical order or by transaction number; to revise provisions
applicable to trust account deposits and transfers of consideration; to
remove a signature requirement; and to revise provisions applicable to
terminating or changing licensed business relationships.

02/09 Senate intro - 1st rdg - to printing

02/12 Rpt prt - to Com/HuRes

02/21 Rpt out - rec d/p - to 2nd rdg

02/22 2nd rdg - to 3rd rdg

03/01 3rd rdg - PASSED - 33-0-2

AYES -- Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett,
Cameron, Corder, Darrington, Davis, Fulcher, Gannon, Goedde, Hammond,
Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge,
Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder,
Siddoway, Stegner, Stennett, Werk

NAYS -- None

Absent and excused -- Coiner, Geddes

Floor Sponsor - Cameron

Title apvd - to House

03/02 House intro - 1st rdg - to Com/HuRes

03/06 Rpt out - rec d/p - to 2nd rdg

03/07 2nd rdg - to 3rd rdg

03/12 3rd rdg - PASSED - 53-13-4

AYES -- Anderson, Andrus, Bayer, Bedke, Bell, Bilbao, Black, Block, Bock, Boe, Bolz, Brackett, Bradford, Chadderdon, Chavez, Chew, Collins, Durst, Edmunson, Eskridge, Hagedorn, Henbest, Henderson, Jaquet, Killen, King, Kren, Lake, LeFavour, Loertscher, Nielsen, Nonini, Pasley-Stuart, Pence, Raybould, Ring, Ringo, Ruchti, Rusche, Sayler, Schaefer, Shepherd(2), Shepherd(8), Shirley, Shively, Smith(30), Snodgrass, Stevenson, Thayn, Trail, Wills, Wood(27), Mr. Speaker

NAYS -- Barrett, Crane, Hart, Harwood, Labrador, Luker, Marriott, Mathews, McGeachin, Mortimer, Patrick, Vander Woude, Wood(35)

Absent and excused -- Clark, Moyle, Roberts, Smith(24)

Floor Sponsor - Schaefer

Title apvd - to Senate

03/13 To enrol

03/14 Rpt enrol - Pres signed - Sp signed

03/15 To Governor

03/20 Governor signed

Session Law Chapter 98

Effective: 07/01/07

Bill Text

]]]]	LEGISLATURE OF THE STATE OF IDAHO]]]]
Fifty-ninth Legislature		First Regular Session - 2007

IN THE SENATE

SENATE BILL NO. 1109

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

1 AN ACT
2 RELATING TO THE REAL ESTATE COMMISSION; AMENDING SECTION 54-2004, IDAHO CODE,
3 TO REVISE DEFINITIONS; AMENDING SECTION 54-2016, IDAHO CODE, TO REMOVE
4 CERTAIN LICENSE REQUIREMENTS; AMENDING SECTION 54-2018, IDAHO CODE, TO
5 MAKE A TECHNICAL CORRECTION, TO REFERENCE REQUIRED FEES, TO REVISE PROVI-
6 SIONS APPLICABLE TO CHANGES IN PERSONAL INFORMATION, TO DELETE A SIGNATURE
7 REQUIREMENT, TO REVISE LANGUAGE PROVIDING FOR THE EFFECTIVE DATE OF
8 LICENSE ISSUANCE AND REQUESTED CHANGES AND TO SET FORTH PROVISIONS RELAT-
9 ING TO LICENSE CERTIFICATES; AMENDING SECTION 54-2020, IDAHO CODE, TO
10 REVISE PROVISIONS APPLICABLE TO FEES; AMENDING SECTION 54-2023, IDAHO
11 CODE, TO REVISE CONTINUING EDUCATION REQUIREMENTS AND TO MAKE A TECHNICAL

CORRECTION; AMENDING SECTION 54-2027, IDAHO CODE, TO REVISE DUTIES AND REQUIREMENTS OF CERTIFIED COURSE PROVIDERS; AMENDING SECTION 54-2035, IDAHO CODE, TO REVISE CERTIFICATION REQUIREMENTS FOR INSTRUCTORS; AMENDING SECTION 54-2040, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REVISE PROVISIONS RELATING TO MAIN OFFICE OF BUSINESS LOCATION, TO SET FORTH PROVISIONS RELATING TO LICENSE CERTIFICATES AND TO REMOVE LANGUAGE PROVIDING FOR THE DISPLAY OF LICENSES AND THE RETURN OF LICENSE CERTIFICATES; AMENDING SECTION 54-2044, IDAHO CODE, TO PROVIDE THAT LEDGER RECORDS SHALL BE KEPT IN ALPHABETICAL ORDER OR BY TRANSACTION NUMBER; AMENDING SECTION 54-2045, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO TRUST ACCOUNT DEPOSITS AND TRANSFERS OF CONSIDERATION; AMENDING SECTION 54-2051, IDAHO CODE, TO REMOVE A SIGNATURE REQUIREMENT; AND AMENDING SECTION 54-2056, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO TERMINATING OR CHANGING LICENSED BUSINESS RELATIONSHIPS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2004, Idaho Code, be, and the same is hereby amended to read as follows:

54-2004. DEFINITIONS. As used in this chapter:

(1) "Accredited college or university" means an institution accredited by the regional accrediting associations, as reported in the most current publication of the accredited institutions of postsecondary education.

(2) "Active license" means the status of a real estate license that has not been inactivated, expired, terminated, suspended or revoked.

(3) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of any act described in subsection (32) of this section.

(4) "Branch office" means an office operated by a licensed real estate broker or licensed legal business entity, separate and apart from the main office. A branch office may be licensed or unlicensed, in accordance with this chapter.

(5) "Brokerage company" means a real estate business, whether a sole pro-

prietorship, a legal entity, or any other licensed person engaged in acts requiring a real estate license in Idaho, and which is conducting or holding itself out as conducting the business of real estate through a designated broker.

(6) "Brokerage representation agreement" means a written contract between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction.

(7) "Business conduct and office operations course" means, in reference to a real estate course offering, the component of the advanced real estate course that is required in order to obtain a broker license and that teaches business practices and office operations of the brokerage, including record-keeping, trust account procedures and the laws governing those practices.

(8) "Business name" means the name in which the brokerage company is

14 licensed by the commission.

15 (9) "Business opportunity" means and includes an established business,
 16 good will of an established business, or any interest therein, or any one (1)
 17 or combination thereof, where a sale or transfer of an interest in land
 18 including, but not limited to, an assignment of a lease, is involved in the
 19 transaction.

20 (10) "Commission" means the Idaho real estate commission, unless the con-
 21 text clearly indicates a different meaning.

22 (11) "Commission core course" means, in reference to a real estate course
 23 offering, the course containing curriculum, identified by the commission, that
 24 stresses current trends in real estate practices and changes in laws in real
 25 estate related industries. A core course must contain no more than four (4)
 26 classroom hours of instruction.

27 (12) "Continuing education elective course" means a real estate course
 28 offering, other than the commission core course for which continuing education
 29 credit hours may be obtained as provided in section 54-2023, Idaho Code.

30 (13) "Convicted" means a plea of nolo contendere or guilty, a jury verdict
 31 of guilty or a court decision of guilt whether or not a judgment or sentence
 32 has been imposed, withheld or suspended.

33 (14) "Cooperative sale" means a transaction involving two (2) or more bro-
 34 kers.

35 (15) "Council" means the Idaho real estate education council.

36 (16) "Dealer in options" means any person, firm, partnership, association
 37 or corporation who shall directly or indirectly take, obtain or use options to
 38 purchase, exchange, lease option or lease purchase real property or any inter-
 39 est therein for another or others whether or not the options shall be in his
 40 or its name and whether or not title to the property shall pass through the
 41 name of the person, firm, partnership, association or corporation in connec-
 42 tion with the purchase, sale, exchange, lease option or lease purchase of the
 43 real property, or interest therein.

44 (17) "Designated broker" means an individual who is licensed as a real
 45 estate broker in Idaho and who is designated by the brokerage company to be
 46 responsible for the supervision of the brokerage company and the activities of
 47 any associated licensees in accordance with this chapter.

48 (18) "Distance learning course" means, in relation to a real estate course
 49 offering, a real estate course that is delivered, not as a live course, but
 50 through a medium in which the instructor and student are separated by **both**
 51 distance ~~or~~ **and** time.

52 (19) "Double contract" means two (2) or more written or unwritten con-
 53 tracts of sale, purchase and sale agreements, loan applications, or any other
 54 agreements, one (1) of which is not made known to the prospective loan under-
 55 writer or the loan guarantor, to enable the buyer to obtain a larger loan than

1 the true sales price would allow, or to enable the buyer to qualify for a loan
 2 which he or she otherwise could not obtain. An agreement or loan application
 3 is not made known unless it is disclosed in writing to the prospective loan
 4 underwriter or loan guarantor.

5 (20) "Executive director" means the executive director of the Idaho real
 6 estate commission.

(21) "Expired license" means the status of a license when the license period has expired and the license is not renewed or provisional license granted, and before the license is terminated.

(22) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(23) "Inactive license" means the status of a license that is not expired, terminated, suspended or revoked, and during which inactive period the license holder is not authorized to act as or associate with a designated broker.

(24) "Legal business entity" means and includes any type of corporation, partnership, limited liability company or limited liability partnership, a governmental entity, trust or other entity capable of conducting business.

(25) "Licensee" means any person who is licensed in accordance with this chapter to engage in the business or act in the capacity of real estate broker, associate broker or real estate salesperson.

(26) "Limited broker" means a broker individually qualified to do business in Idaho, but who may not have associate brokers or salespersons licensed with that broker.

(27) "Live presentation" means, in reference to a real estate course offering, a real estate course that is personally presented by the instructor and personally attended by the student at the same facility, or, if separated by distance, the instructor and student are connected by contemporaneous, two-way audio and visual communication.

(28) "Main office" means the principal location where the real estate broker is licensed to transact business.

(29) "Person" means and includes an individual, or any legal business entity.

(30) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(31) "Provisional license" means an extension of the period of active licensure, beyond the licensee's expiration date, granted by the commission for the purpose of allowing the licensee to complete the continuing education requirements set forth in section 54-2023, Idaho Code, or for any other purpose allowed by this chapter.

(32) "Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others;

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth;

(e) A dealer in options as defined in this section.

(33) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of any act described in subsection (32) of this section.

(34) "Real estate settlement procedures act" means the real estate settlement procedures act of 1974, as amended, 12 U.S.C. section 2601 et seq., and as in effect on January 1, 2005~~7~~.

(35) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(36) "Responsible broker" means the designated broker in the regulated real estate transaction who is responsible for the accounting and transaction files for the transaction, in the manner described in section 54-2048, Idaho Code.

(37) "Revoked license" means a license that has been permanently revoked by the issuing authority.

(38) "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

(39) "State or jurisdiction" means and includes any of the fifty (50) states and any foreign jurisdiction that issue real estate licenses substantially similar to those provided for in this chapter.

(40) "Successfully completed" means, in reference to a real estate course offering, completing all required course hours and, except where the licensee seeks continuing education credit for having regularly attended the live presentation of a course, passing a commission-approved final examination.

(41) "Surrendered license" means a license that has been voluntarily terminated or surrendered by a licensee who, at the time of the voluntary termination or surrender, was under investigation or named in a formal administrative complaint.

(42) "Suspended license" means a license that has been temporarily suspended by the issuing authority.

SECTION 2. That Section 54-2016, Idaho Code, be, and the same is hereby amended to read as follows:

54-2016. PRIMARY IDAHO LICENSES FOR LEGAL BUSINESS ENTITIES, SOLE PROPRIETORSHIPS AND BRANCH OFFICES -- ADDITIONAL REQUIREMENTS. (1) Legal business entities. Each legal business entity, as defined in section 54-2004, Idaho Code, shall be licensed by the Idaho real estate commission to engage in the real estate business in Idaho and shall make proper application, pay all required fees, and meet all requirements listed below.

(a) Each legal business entity shall have a properly licensed individual designated broker, who shall be held responsible for the activities of the licensed entity.

(b) The individual designated broker shall, within five (5) years immediately prior to the designation, satisfactorily complete a commission-approved business conduct and office operations course.

(c) The individual designated broker shall also hold the following legal position within the licensed entity:

(i) Corporation -- an officer;

- 50 (ii) Partnership or limited partnership -- a general partner;
- 51 (iii) Limited liability company -- a member or manager.

52 The individual designated broker for any business entity shall have full
53 authority to act on behalf of the licensed business entity, and shall sub-

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1 mit sufficient and satisfactory proof thereof with the application for
2 license. Such proof shall include a list of the entity's officers, direc-
3 tors, members or managers, as reflected in the minutes, resolutions or
4 other similar business documents of the entity. All acts of that individ-
5 ual as designated broker shall be considered acts of the licensed business
6 entity. Nothing in this section is intended to create liability to a legal
7 business entity for illegal or fraudulent acts by the individual broker
8 performed solely on his own account.

9 (d) A license issued to a legal business entity, as defined in this chap-
10 ter, is effective only as long as the individual designated broker's
11 license is in active status and in effect. If the individual so designated
12 has a license refused, revoked, suspended or otherwise made inactive by
13 the commission, or if the individual designated broker voluntarily sur-
14 renders the individual license or ceases to be connected with the entity
15 in the manner required above, the business entity shall have ten (10)
16 business days in which to designate another qualified individual as desig-
17 nated broker before the entity's license is terminated, and the licenses
18 of all associated licensees are made inactive.

19 (e) One (1) individual may act as designated broker for more than one (1)
20 licensed business entity, however, all entities shall have their main
21 offices in the same physical location.

22 (f) Satisfactory proof of mandatory errors and omissions insurance shall
23 be provided for both the individual designated broker and the licensed
24 business entity.

25 (g) A legal business entity doing business under an assumed name shall
26 provide satisfactory proof of having legally filed a certificate of
27 assumed name with the Idaho secretary of state.

28 (2) Sole proprietorships. An individual designated broker not licensed
29 with a legal business entity, as defined in section 54-2004, Idaho Code, shall
30 be licensed as a sole proprietor. Each sole proprietorship seeking a real
31 estate license shall meet all of the following requirements:

32 (a) A licensed sole proprietor doing business under an assumed business
33 name shall provide satisfactory proof of having legally filed a certifi-
34 cate of assumed name with the Idaho secretary of state;

35 (b) Satisfactory proof of mandatory errors and omissions insurance shall
36 be provided for the licensed designated broker of a sole proprietorship;

37 (c) The individual designated broker shall have satisfactorily completed
38 a commission-approved business conduct and office operations course within
39 five (5) years immediately prior to the application for license.

40 (3) Multiple business names prohibited. A legal business entity or sole
41 proprietorship shall be licensed under only one (1) business name.

42 (4) Branch offices. Each branch office in which trust funds and original
43 transaction files are maintained shall be separately licensed in accordance
44 with the following:

45 (a) The designated broker establishing the branch office shall submit an

46 application, along with the required fee for the issuance or renewal of
47 the branch office license.

48 (b) The designated broker shall designate in the application a branch
49 manager, who shall be an associate broker and who, within five (5) years
50 immediately prior to the designation, shall have completed a commission-
51 approved business conduct and office operations course, to regularly
52 occupy and be responsible for the supervision of the branch office. Any
53 salesperson acting as a branch manager on July 1, 2005, shall have until
54 July 1, 2006, to obtain an associate broker's license. When a branch man-
55 ager is a regular full-time employee or is engaged in a full-time activity

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1 at a location other than the place he is licensed to do business, a pre-
2 sumption will be made that the branch manager is unable to responsibly
3 supervise the branch; provided however, the presumption may be overcome by
4 evidence to the contrary which the commission determines to be satisfac-
5 tory.

6 (c) A branch manager shall not be licensed to manage more than one (1)
7 branch office at a time.

8 (d) A license issued to a branch office is valid and in effect only as
9 long as the license of the designated broker remains in active status. ~~The~~
10 ~~license certificate of the branch office shall be signed by the desig-~~
11 ~~nated broker.~~

12 (e) No separate branch office license or manager is required for business
13 locations other than the main office unless trust funds or original trans-
14 action records are kept at the branch.

15 (f) If a separate real estate trust account is maintained for a branch
16 office, all records and related files for that account shall be maintained
17 at the branch office.

18 (g) Each branch office or business location, whether separately licensed
19 or not, shall conduct business only in the licensed name of the legal
20 entity or sole proprietor.

21 ~~(h) The current license certificates for the branch office, the branch~~
22 ~~manager, and for each sales associate conducting business from the branch~~
23 ~~office shall be prominently displayed or available for public inspection~~
24 ~~at the branch office.~~

25 SECTION 3. That Section 54-2018, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-2018. LICENSE RENEWALS -- INACTIVE LICENSES STATUS -- PERSONAL CHANGES
28 -- EFFECTIVE DATES -- FEES NONREFUNDABLE. (1) Initial license period. Each new
29 license shall be for a period of one (1) year plus the months up to and
30 including the next birth date of the licensee, not to exceed a period of two
31 (2) years, and shall expire on the last day of the month of the birth date of
32 the licensee. Corporations, partnerships, limited liability companies and
33 other entities defined as "persons" in this chapter shall have established as
34 the equivalent of a birth date, the birth date of its designated broker.
35 Licensed branch offices shall have established as the equivalent of a birth

36 date, the birth date of the designated broker for the branch office.
 37 (2) License renewal. Each license shall be renewable for a period of two
 38 (2) years by timely submitting a completed application. Applications must be
 39 received at the commission office on or before 5 p.m. of the expiration date.
 40 (a) If renewing an active license, the application shall include:
 41 (i) Certification that the applicant has met the commission's con-
 42 tinuing education requirements as set forth in section 54-2023, Idaho
 43 Code;
 44 (ii) Certification that the applicant has met the mandatory errors
 45 and omissions insurance requirement for real estate licensees as set
 46 forth in section 54-2013, Idaho Code; and
 47 (iii) Payment of all renewal fees established by this chapter or by
 48 the commission.
 49 (b) If renewing an inactive license, the application shall include pay-
 50 ment of all renewal fees established by this chapter or by the commission
 51 by rule.
 52 (3) Late renewal. If the licensee fails to submit a completed application
 53 for renewal or pay the renewal fee on or before the expiration date, the com-

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1 mission may accept a later application or payment of the fee, subject to such
 2 conditions as the commission may require including, but not limited to, the
 3 assessment of a late fee; provided that between the license expiration date
 4 and the date of renewal of the license, the rights of the licensee under such
 5 license shall be expired, and during such period of expiration it shall be
 6 unlawful for any licensee to do or attempt to offer to do any of the acts of
 7 the kind and nature described in the definitions of real estate broker or real
 8 estate salesperson in section 54-2004, Idaho Code, in consideration of compen-
 9 sation of any kind or expectation thereof. An expired license that is not
 10 renewed within one (1) year of the expiration date shall be automatically ter-
 11 minated by the commission and may not be renewed.

12 (4) Active and inactive license status. A licensee who is a designated
 13 broker or associated with a designated broker shall hold an active license. A
 14 licensee who has paid all applicable fees, who is not associated with a desig-
 15 nated broker and who holds a current license that is not revoked, suspended or
 16 terminated shall hold his license on inactive status. A licensee seeking to
 17 change from active license status to inactive license status shall have the
 18 broker submit a change of status application to the commission in the form and
 19 manner approved by the commission. During the period that his license is inac-
 20 tive, the licensee shall not engage in the business or act in the capacity of
 21 real estate broker, associate broker or salesperson. However, an inactive
 22 licensee may receive a referral fee for any referral made during the period
 23 his license was active. A licensee may activate an inactive license by meeting
 24 each of the following:

25 (a) If activating as a sales associate, associating with a designated
 26 Idaho broker and having the broker submit an application in the form and
 27 manner approved by the commission;
 28 (b) If activating as a designated broker, establishing an office in the
 29 manner required by this chapter and submitting an application in the form
 30 and manner approved by the commission;
 31 (c) Paying ~~the~~ any required fees;

(d) Obtaining and maintaining a policy of errors and omissions insurance as required by section 54-2013, Idaho Code, and in accordance with the rules of the commission and certifying the same; and

(e) Successfully completing any continuing education requirements, as prescribed in section 54-2023, Idaho Code, and certifying the same for the current license period.

(5) Continuing education. A licensee shall not submit an application to renew a license on active status or to activate an inactive license without having obtained the continuing education credit hours required by section 54-2023, Idaho Code. A licensee who violates this subsection (5) shall be subject to disciplinary action by the commission.

(6) Time required. The commission may request satisfactory proof of continuing education compliance from any licensee who has certified to the commission that he has completed the requirement. The request shall state the time within which the proof must be received at the commission office, which time shall not be less than ten (10) business days.

(7) Satisfactory proof. Upon request from the commission, the licensee shall submit satisfactory proof of having met the continuing education requirement set forth in section 54-2023, Idaho Code. "Satisfactory proof" shall, for each course, consist of documentation:

(a) Identifying the licensee, the title of the course or challenge exam, the course certification number, the course provider, the number of classroom hours, the completion date of the course or challenge exam, and including:

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(i) A transcript of the course taken;

(ii) A letter from the provider verifying successful completion of the course; or

(iii) A course completion certificate; and

(b) Identifying the course certification approval number to establish that the course is approved for continuing education credit as provided by section 54-2023, Idaho Code. The commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit.

(8) Failure to submit proof. A licensee failing to submit satisfactory proof of completing the continuing education requirement after being requested to do so by the commission may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission satisfactory proof that he meets the continuing education requirements of section 54-2023, Idaho Code. Nothing in this section shall limit the ability of the commission to investigate or discipline a licensee for violating subsection (5) of this section or for violating any other section of this chapter.

(9) Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change ~~and the fee~~

25 ~~for issuing a new license certificate~~ and, if an active licensee, he shall
 26 have the broker submit the written notice of change to the commission. ~~Upon~~
 27 ~~receipt of the new license certificate or upon its effective date, whichever~~
 28 ~~is later, the broker shall remove from public view any license certificate~~
 29 ~~bearing the licensee's former name.~~

30 (10) ~~Signature required. No license shall be valid unless the license cer-~~
 31 ~~tificate is signed by the licensee.~~

32 ~~(11)~~ **Issuance of the license and effective dates.** A ~~request for licensure~~
 33 ~~or for real estate~~ license **shall be deemed issued, and any requested license**
 34 changes shall become effective, when the completed application, attachments,
 35 and any required fees are received at and approved by the commission. An
 36 application that is incomplete or lacking the required fees shall be returned
 37 to the applicant and no license shall be issued until a completed application
 38 and all required fees are received at and actually approved by the commission.
 39 **A brokerage is not required to obtain, display or possess a physical license**
 40 **certificate as evidence of the individual's active licensure; however, the**
 41 **commission may make license certificates available for a fee as authorized by**
 42 **this chapter. A brokerage shall not display or otherwise make available to the**
 43 **public a license certificate for any individual who does not hold an active**
 44 **license with the brokerage.**

45 (121) Fees nonrefundable. No licensee shall be entitled to a refund of any
 46 fee after the license or license change has become effective.

47 SECTION 4. That Section 54-2020, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

49 54-2020. FEES. The Idaho real estate commission shall establish fees
 50 which, in its discretion, are sufficient, when added to the other fees autho-
 51 rized by this chapter, or any other law or rule, to raise that revenue
 52 required to administer the provisions of this chapter.

53 The commission shall assess the following fees, in addition to any other

1 fees established in this chapter or by rule, **provided that all fees estab-**
 2 **lished by administrative rule of the commission shall remain effective from**
 3 **year to year unless changed through the rulemaking process prescribed in chap-**
 4 **ter 52, title 67, Idaho Code:**

5 (1) For each year or portion thereof for which an active or inactive
 6 license is issued or renewed, a license fee in an amount not to exceed one
 7 hundred fifty dollars (\$150), the exact fee to be ~~determined~~ **established** by
 8 administrative rule of the commission. ~~Fees so established shall remain effec-~~
 9 ~~tive from year to year unless changed through the rules promulgation process~~
 10 ~~prescribed in chapter 52, title 67, Idaho Code;~~

11 (2) A tuition or registration fee for real estate education courses,
 12 course materials and any course exam fee. These fees shall be established
 13 based upon the total annual costs involved in the provision of all real estate
 14 education courses, course materials and course exam fees;

15 (3) A **late license renewal** fee in ~~the~~ **an** amount ~~of~~ **not to exceed** twenty-

16 five dollars (\$25.00), the exact fee to be established by administrative rule
 17 of the commission; for late license renewal;

18 (4) ~~A fee in the amount of fifteen dollars (\$15.00) f~~For any license
 19 ~~change that necessitates the issuance~~ printing of a new license certificate, a
 20 fee in an amount not to exceed fifteen dollars (\$15.00), the exact fee to be
 21 established by administrative rule of the commission;

22 (5) A fee in the amount allowed by law for insufficient funds checks or
 23 other types of insufficient payment;

24 (6) ~~A fee in the amount of ten dollars (\$10.00) f~~For the compilation of
 25 each certified copy of a licensee's education history or license history, a
 26 fee in an amount not to exceed ten dollars (\$10.00), the exact fee to be
 27 established by administrative rule of the commission;

28 (7) ~~A fee in the amount of fifty dollars (\$50.00) f~~For issuance or
 29 renewal of a branch office license, a fee in an amount not to exceed fifty
 30 dollars (\$50.00), the exact fee to be established by administrative rule of
 31 the commission.

32 SECTION 5. That Section 54-2023, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 54-2023. CONTINUING EDUCATION REQUIREMENTS. Each licensee applying to
 35 renew an Idaho real estate license on active status, and each Idaho licensee
 36 applying to change from inactive to active license status, shall successfully
 37 complete a commission core course, plus the required number of classroom hours
 38 of commission-approved or certified continuing education coursework as pro-
 39 vided in this section.

40 (1) Required number of classroom hours. The required number of classroom
 41 hours is as follows:

42 (a) Renewing license on active status. A licensee renewing on active sta-
 43 tus must successfully complete a commission core course, plus sixteen (16)
 44 classroom hours of continuing education, on or before the current license
 45 expiration date.

46 (b) Change from inactive to active. Unless the licensee is within the
 47 initial licensing period, a licensee changing from inactive to active
 48 license status shall complete a commission core course, plus sixteen (16)
 49 classroom hours of continuing education, before he can change to active
 50 license status. If the inactive licensee is within his initial licensing
 51 period, no continuing education is required to change to active license
 52 status.

53 (2) No duplicate credit. No licensee may obtain continuing education

1 credit for completing:

2 (a) Any core course curriculum for which he has previously received con-
 3 tinuing education credit; or

4 (b) Any course curriculum for which he has received continuing education
 5 credit in the same license period.

6 (3) Excess credits. The classroom hours shall apply to the license period
 7 in which such course is completed; hours completed in excess of those required

8 for the license period shall not accumulate or be credited for the purposes of
 9 subsequent license renewal periods.

10 (4) Commission-ordered education. No licensee shall obtain continuing
 11 education credit for education ordered by the commission as part of a disci-
 12 plinary action.

13 (5) Obtaining continuing education classroom hours. In order to obtain
 14 continuing education classroom hours, a licensee must:

15 (a) Successfully complete a commission-approved continuing education
 16 course;

17 (b) Successfully complete a commission-approved continuing education
 18 challenge exam;

19 (c) Attend an entire regularly-scheduled meeting of the commission. ~~The~~
 20 ~~licensee shall provide at least seven (7) days' advance notice to the edu-~~
 21 ~~cation section of the commission of his intent to attend the meeting.~~
 22 ~~Failure to provide advance notice shall result in no continuing education~~
 23 ~~hours being credited.~~ A maximum of ~~three~~ **four** (34) hours for this activity
 24 shall be credited for any one (1) meeting in any one (1) license period;

25 (d) Successfully complete a commission-approved broker prelicense course,
 26 or a commission-approved continuing education challenge exam, in advanced
 27 real estate study. Continuing education credit may be obtained for retak-
 28 ing the same broker prelicense course or challenge exam only if completed
 29 after five (5) years of completing the previous course or challenge exam;
 30 or

31 (e) Provide to the commission a transcript or course completion certifi-
 32 cate of successful completion of any of the following courses without com-
 33 mission preapproval of the curriculum, instructors or providers:

34 (i) Professional designation courses. Any course developed by
 35 national professional organizations that ~~are~~ **is** required in order to
 36 earn professional designations from a national organization in spe-
 37 cialized areas of licensed real estate practice;

38 (ii) Courses accredited by another profession or jurisdiction. Any
 39 course approved by and offered in satisfaction of another profes-
 40 sional or occupational licensing authority's education requirements,
 41 if the course is within the approved topic areas established by the
 42 commission; or

43 (iii) Courses offered by an accredited college or university. Any
 44 course offered in satisfaction of a degree requirement by an accred-
 45 ited college or university if the course is within the approved topic
 46 areas established by the commission.

47 (f) If a certified course instructor, teach a live course for which con-
 48 tinuing education credit may be obtained. Credits shall be granted for the
 49 number of classroom hours taught.

50 (6) Licensee duty to keep satisfactory proof. The licensee shall keep
 51 satisfactory proof of having completed the continuing education requirement
 52 and shall submit such proof at the request of the commission as provided in
 53 section 54-2018, Idaho Code.

54 (7) Provisional license -- Extension of time. A three-month extension of
 55 time for completing the education requirements may be obtained by submitting

with the renewal application, or application to activate, satisfactory evidence showing that the applicant was unable to comply with such education requirements. Such evidence shall be:

- (a) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;
- (b) Health reasons preventing attendance or completion;
- (c) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or
- (d) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

If such an extension is granted, the licensee shall receive a provisional license for a period of time not to exceed three (3) months. No further extension of time may be granted. A license issued or renewed after an extension of time has been granted shall retain the original license expiration date. Failure to satisfy the continuing education requirement within the time granted shall result in the automatic inactivation of the license.

SECTION 6. That Section 54-2027, Idaho Code, be, and the same is hereby amended to read as follows:

54-2027. DUTIES AND REQUIREMENTS OF ALL CERTIFIED COURSE PROVIDERS. Failure of a certified course provider to comply with the following duties and requirements shall be grounds for the commission to withdraw or cancel the provider's certification for cause.

(1) Discrimination prohibited. Each certified course provider shall at all times be in compliance with state and federal laws, rules and regulations regarding all aspects of equal opportunity and protection of civil rights. No course provider shall engage in discriminatory practices, nor allow their course instructor, or method of delivery to violate laws prohibiting discrimination. Each course provider will fully comply with any requirements of the Americans with disabilities act regarding access to and delivery of its courses, including the provision of accessible facilities and reasonable accommodations for students.

(2) Open access to course offerings. Registration and attendance at all certified courses offered for ~~prelicense or continuing education~~ credit **toward the education requirements of this chapter** shall be open to all persons meeting normal course prerequisites; provided however, a certified course provider located in or affiliated with a licensed real estate brokerage company or professional association may refuse access to any licensee or unlicensed person based on that licensee's or unlicensed person's affiliation with another organization or brokerage company, or the licensee's or unlicensed person's membership status in any professional organization unless such course provider has received financial support from the commission for its particular course offering. Nothing in this section shall restrict a course provider from charging a separate and reasonable course fee to nonaffiliated or nonmember licensees or unlicensed persons.

(3) Disclosure of fees. All fees charged to a student by a course provider shall be specified separately in writing. If additional fees are charged for supplies, materials or books required for coursework, such fees shall be itemized by the provider and, upon payment of such fees, the supplies, mate-

50 rials or books shall become the property of the student. All fees and the man-
 51 ner in which they are to be paid shall be stated in a student contract, in a
 52 form approved by the commission. The student contract shall expressly include
 53 the provider's policy regarding the return of fees in the instance where the

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1 student is dismissed or voluntarily withdraws from the course.

2 (4) Facilities and supportive personnel. The provider shall provide the
 3 facilities and all supportive qualified personnel or approved proctors neces-
 4 sary to adequately implement its real estate program.

5 (5) Student records and other requirements. Each Idaho certified course
 6 provider shall comply with the following requirements:

7 (a) Records. Maintain for each individual student a complete, accurate
 8 and detailed record which shall include the total number of hours of
 9 instruction undertaken and satisfactorily or unsatisfactorily completed in
 10 the area of study;

11 (b) Course completion lists. Within five (5) working days after conclu-
 12 sion of each course of instruction, the provider shall submit to the
 13 council or commission an alphabetical list which shall include the names,
 14 addresses, and social security numbers or, if licensed, the license num-
 15 bers, of the students completing the course of instruction, the name of
 16 the course, the name of the instructor, the number of hours included in
 17 the course, the date of the course and the location. The list shall be
 18 certified by the instructor from whom the students received instruction
 19 and an authorized representative of the provider;

20 (c) Grades. The provider will provide written notification to students
 21 who successfully or unsuccessfully complete a course within thirty (30)
 22 days of the course completion date;

23 (d) Evaluations. Upon the conclusion of each course, the provider shall
 24 collect written evaluations from students for the course and instructor,
 25 using an evaluation form approved by the commission., ~~provided:~~

26 ~~(i) For each prelicense course, the provider shall promptly submit~~
 27 ~~the collected student written evaluations to the commission; and~~

28 ~~(ii) For each continuing education course, t~~The provider shall keep
 29 such evaluations for a period of one (1) year from the course comple-
 30 tion date. Upon written request from the commission, the provider
 31 shall submit ~~a written summary of~~ **either** the student evaluations for
 32 the course and instructor, **or a written summary of those evaluations**
 33 using a form approved by the commission.

34 (e) Course schedules. Each provider shall submit schedules of courses and
 35 instructors as requested by the commission and submit changes promptly as
 36 they occur. Whenever there is a change in a course including, but not lim-
 37 ited to, a change in curriculum, course length or instructor, the provider
 38 shall promptly notify the commission in writing of the change.

39 (6) ~~Instructors. certification not required for continuing education~~
 40 ~~elective courses.~~ A certified provider may offer a continuing education elec-
 41 tive course without obtaining approval or certification for the course
 42 instructor; provided however, the provider shall **take reasonable steps to**
 43 **ensure that the instructor is competent to teach the course and shall** maintain
 44 resumes or other biographical information that documents the qualifications of

the instructor. ~~to teach the continuing education elective course~~ **The provider shall make such documentation available to the public and commission upon written request. A course provider shall not offer for credit any course that is being taught below the minimum teaching standards established by the commission or that is being taught in a manner that is detrimental to the purpose of educating licensees.**

(7) Posting and recording fees. The commission may require that course providers pay to the commission a nonrefundable posting and recording fee to defray normal expenses incurred in maintaining the certificate program. The fee amount shall be established by the commission by motion.

(8) Advertising restrictions:

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(a) Providers may advertise that they are currently certified by the commission, if current certification has been approved, but no such advertising may state or imply that the provider is an agency of the commission or the council;

(b) No course provider shall provide any information to the public or to prospective students which is misleading in nature. Information is misleading when, taken as a whole, there is distinct probability that it will deceive the persons whom it is intended to influence.

(9) Changes in certification. Certification shall be granted to the particular provider for the specific ownership, provider location, and named individual in charge as designated in the application for certification. Any changes in ownership, provider location, or provider name, or named individual in charge must be submitted for approval to the commission, at least one (1) month in advance of the effective date of the proposed changes.

SECTION 7. That Section 54-2035, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035. TERM OF INSTRUCTOR CERTIFICATION AND RENEWAL. (1) Certification. Each instructor certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the instructor certificate.

(2) Recertification.

(a) In order to be recertified, each instructor shall:

(i) Return a ~~properly~~ completed recertification application on a form provided by the commission, along with all necessary attachments and fees, to the commission office prior to the expiration date for commission approval;

(ii) ~~Have adequately taught or assistant taught, during the preceeding two (2) years, at least twenty (20) hours of each course for which recertification is sought~~ **Demonstrate the ability to adequately teach the course.** The ~~adequacy of instructor teaching performance~~ **ability to adequately teach** shall be determined by the commission based upon any or all of the following:

1. Evaluations received from students;

2. Direct observation of the instructor's **teaching** performance

35 by a commission representative; or
 36 3. Review of the outline and reference materials provided for
 37 the course; and
 38 (iii) Have attended a commission-sponsored instructor development
 39 seminar or received other acceptable training in methods of teaching
 40 adults during the preceding two (2) years.
 41 (b) Recertification shall not be effective until the commission formally
 42 approves the application for renewal. An instructor's failure to obtain
 43 approved recertification prior to the expiration of the certification will
 44 result in no credit being given for any course taught by the instructor
 45 whose certification has expired prior to conclusion of the course.

46 SECTION 8. That Section 54-2040, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 54-2040. MAIN OFFICE OR BUSINESS LOCATION. ~~— DISPLAY OF LICENSE. —~~ (1)
 49 Definite location required. Each individual licensed as a designated real
 50 estate broker under the provisions of this chapter shall be required to have
 51 and maintain a definite, physical place of business, which place shall serve

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1 as his main office for the transaction of business and be regarded for the
 2 intent and purpose of this chapter as his principal place of business. Notice
 3 in writing shall be given to the commission of any change by the broker of the
 4 business name, location, or mailing address. ~~along with the fee for issuance~~
 5 ~~of a new license certificate. Upon receipt of the new license certificate or~~
 6 ~~upon its effective date, whichever is later, the broker shall remove from pub-~~
 7 ~~lic view any license certificate bearing the former business name or former~~
 8 ~~location~~ **No other location may be used as a main office location until proper**
 9 **notice is acknowledged by the commission.** A change of business name or loca-
 10 tion without notification to the commission ~~and issuance of a new license cer-~~
 11 ~~tificate~~ shall automatically inactivate the license previously issued. The
 12 broker shall also notify the commission in writing of any change in the busi-
 13 ness telephone number. **A designated broker is not required to obtain, display**
 14 **or possess a physical license certificate as evidence of the business's licen-**
 15 **sure; however, the commission may make license certificates available for a**
 16 **fee as authorized by this chapter. The broker shall not display or otherwise**
 17 **make available to the public any license certificate bearing a former business**
 18 **name or former location.**

19 (2) Broker for more than one business. A qualified individual may be the
 20 designated broker for more than one (1) licensed real estate business entity
 21 only if all licensed businesses operate their main offices at the same phys-
 22 ical location.

23 (3) Brokers sharing same business location. More than one (1) individu-
 24 ally licensed broker may operate an office at the same address only if each
 25 broker operates under a business name which clearly identifies the broker as
 26 an individual within the group of brokers, and each broker shall maintain his
 27 or her records and trust accounts separate from all other brokers.

28 (4) Business name. ~~and display of licenses.~~ A broker shall not conduct

29 business under any name other than the one in which the license is issued. ~~The~~
 30 ~~current license certificate for the broker and for each associate licensed~~
 31 ~~with the broker shall be prominently displayed or available for public inspec-~~
 32 ~~tion in the office designated with the commission as the broker's main office~~
 33 ~~location. No other location may be used as a main office location until proper~~
 34 ~~notice is acknowledged by the commission.~~

35 (5) Lending license prohibited. A broker shall not lend or permit the use
 36 of the broker's license, whether for compensation or not, to enable anyone
 37 licensed or unlicensed to, in fact, establish or carry on a business for which
 38 a real estate broker's license is required, wherein the broker does not activ-
 39 ely manage and have full control. In like manner, a salesperson shall not use
 40 another person's broker's license, whether for compensation or not, to estab-
 41 lish or carry on a business for which a broker's license is required, nor to
 42 manage and control the office, except as allowed by sections 54-2016(4) and
 43 54-2039(1), Idaho Code.

44 ~~(6) Return of license certificate. Upon surrender of a real estate~~
 45 ~~license or upon notice of suspension or revocation of such license, the broker~~
 46 ~~shall immediately forward the license certificate to the commission. The~~
 47 ~~license certificate of any sales associate licensed under and associated with~~
 48 ~~a broker whose license is to be surrendered, suspended or revoked shall be~~
 49 ~~returned to the commission on or before the effective date of the notice or~~
 50 ~~order surrendering, suspending or revoking the broker's license.~~

51 SECTION 9. That Section 54-2044, Idaho Code, be, and the same is hereby
 52 amended to read as follows:

53 54-2044. TRUST ACCOUNT RECORDKEEPING -- FORMAT OF RECORDS REQUIRED. In

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1 order that the financial interests of the consumers of Idaho be adequately
 2 protected, each designated broker is required to create and maintain the fol-
 3 lowing records regarding any real estate trust account, and is required to
 4 reconcile and balance each trust account with all ledger records, the check
 5 register and the bank statement at least once each month. Any electronic
 6 recordkeeping system is required to have a generally accepted and adequate
 7 backup system in use at all times.

8 (1) Maintenance ledger record. A separate ledger card or record, herein
 9 called "ledgers," identified as "trust account maintenance fund" shall be ini-
 10 tiated when the broker's or firm's funds are initially deposited into the
 11 trust account. These ledgers shall be filed at all times with the broker's
 12 current "open" ledgers of pending transactions. Additions or deductions to
 13 trust account maintenance funds shall be posted to the ledger records as soon
 14 as the broker is given notice of the deposit or deduction. The balance on
 15 this maintenance fund ledger shall be kept current at all times.

16 (2) Individual trust ledger records. An individual trust ledger shall be
 17 immediately created whenever a broker, or any licensed or unlicensed person
 18 representing the broker, receives earnest money or other consideration, even
 19 if the consideration will be deposited with, held by, paid directly to, trans-

20 ferred or delivered to a title company, other approved depository, or any
 21 other person, as directed in writing, and signed by both parties to the trans-
 22 action. Receipt of consideration, for purposes of this chapter, occurs when
 23 the broker or any person representing the broker, takes physical possession of
 24 the consideration or assumes the responsibility to deliver or deposit it.

25 (3) When a broker deposits funds with another broker, an approved deposi-
 26 tory, or directly to the seller or any other person, as directed in writing by
 27 both parties to the transaction, a ledger record must be created by the trans-
 28 ferring broker, with a transaction number assigned. Upon transfer of funds or
 29 consideration, a receipt for such deposit shall be obtained and retained in
 30 the transaction files of the transferring broker. The receipt must show the
 31 name of the payee and date of transfer.

32 (4) Additional requirements for creating an individual trust ledger
 33 record are set forth in section 54-2045, Idaho Code. Individual trust ledger
 34 records must each be assigned a transaction number. In addition, each individ-
 35 ual trust account ledger record created must contain:

- 36 (a) The next chronological transaction number for each transaction;
- 37 (b) The names of both parties to the transaction;
- 38 (c) The location of the property;
- 39 (d) The date of each deposit and disbursement;
- 40 (e) The name of the payor or payee;
- 41 (f) The amount and check number of each disbursement;
- 42 (g) The amount and nature of the deposit;
- 43 (h) The current balance; and
- 44 (i) After the transaction is closed, each individual ledger record must
 45 show the final disposition of the transaction and funds.

46 A broker's trust account ledger records must be maintained with one (1) file,
 47 electronic or hard copy, for closed, terminated and rejected transactions, and
 48 a separate file for transactions pending but not closed. Ledger records shall
 49 be kept in alphabetical order or by transaction number. Ledger posting must be
 50 kept current at all times.

51 (5) Trust account checks. The broker shall maintain consecutively num-
 52 bered checks for each trust account, which checks must:

- 53 (a) Contain the broker's licensed business name and current business
 54 address; and
- 55 (b) Be imprinted with the words "real estate trust account."

1 (6) Check register or journal. A check register or journal must be posted
 2 properly, maintained and kept current by the broker at all times even if funds
 3 are held at a title company or other approved depository. The register must
 4 itemize deposits and disbursements in consecutive order, and must also clearly
 5 show:

- 6 (a) The date of the deposit or disbursement;
- 7 (b) The payee or payor;
- 8 (c) The amount and purpose of any deposits or disbursements;
- 9 (d) The check number;
- 10 (e) The transaction number; and
- 11 (f) The current cash balance remaining in that trust account.

12 (7) Duplicate bank deposit record. For each trust account, the broker
 13 shall maintain, in hard copy, a duplicate bank deposit record, which shall be

14 imprinted with the broker's business name and the words, "real estate trust
15 account." Each deposit record shall state:

- 16 (a) The name of the person or firm placing the money with the broker's
17 office;
- 18 (b) The date of the deposit; and
- 19 (c) The transaction number. The duplicate deposit record shall be
20 retained in the bank deposit records in proper chronological sequence and
21 shall be date stamped by the bank or the bank deposit receipt shall be
22 attached to the duplicate deposit record in the deposit records.

23 (8) Real estate trust account checks. For each trust account, the broker
24 shall maintain a set of consecutively numbered checks, which shall be
25 imprinted with the broker's business name and address and the words "real
26 estate trust account." Any check drawn on such a trust account shall be iden-
27 tified by a transaction number noted on the face of the check. Any voided
28 trust account check shall be marked "VOID" and retained in numerical sequence
29 with the other checks for the banking month.

30 SECTION 10. That Section 54-2045, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 54-2045. TRUST ACCOUNT DEPOSITS AND RECEIPT OF CONSIDERATION. Except as
33 otherwise provided in this section, all entrusted funds received by a broker
34 in connection with a regulated real estate transaction, including, but not
35 limited to, earnest money, shall be deposited into a real estate trust account
36 maintained by the broker at an approved depository. ~~located in the state of~~
37 ~~Idaho~~. In addition, all earnest money, option money, promissory notes, tangi-
38 ble personal property and any other consideration received by a broker,
39 regardless of form, must be accounted for upon receipt and in the following
40 manner:

41 (1) Time of deposit. All moneys received by a broker for another in a
42 real estate transaction are to be deposited on or before the banking day imme-
43 diately following the receipt day of such funds, unless written instructions
44 signed by the party or parties having an interest in the funds direct the bro-
45 ker to do otherwise.

46 (2) Checks held in uncashed form. A ledger record must also be created
47 when the broker or associate receives a check to be held for later deposit.
48 However, such a check must be accompanied by written instructions in the pur-
49 chase and sale agreement or offer to withhold deposit until a time certain,
50 such as acceptance of the offer by the seller.

51 (3) Consideration returned before deposit. A ledger record must also be
52 created even if the consideration received by a broker or salesperson is to be
53 returned before it has been deposited or otherwise ~~properly~~ transferred. A

1 written and dated notation must be placed on both the purchase and sale agree-
2 ment, offer or other document dealing with the consideration, and on the led-
3 ger record. No consideration is to be returned without the knowledge and con-
4 sent of the broker.

5 (4) Consideration received by sales associate. All consideration, includ-
6 ing cash, checks held in uncashed form and promissory notes, received by a

7 sales associate in connection with a real estate transaction shall be immedi-
8 ately delivered to the broker or the broker's office.

9 SECTION 11. That Section 54-2051, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 54-2051. OFFERS TO PURCHASE. (1) A broker or sales associate shall, as
12 promptly as practicable, tender to the seller every written offer to purchase
13 obtained on the real estate involved, up until time of closing, ~~and shall~~
14 ~~obtain the signature of the seller or seller's agent verifying time and date~~
15 ~~such offer was received.~~ A purchase and sale agreement signed by the prospec-
16 tive buyer shall be deemed in all respects an offer to purchase.

17 (2) Immediately upon receiving any offer to purchase signed and dated by
18 the buyer and any consideration, a broker or salesperson shall provide a copy
19 of the offer to purchase to the buyer as a receipt.

20 (3) Upon obtaining a properly signed and dated acceptance of an offer to
21 purchase, the broker or sales associate shall promptly deliver true and legi-
22 ble copies of such accepted offer to both the buyer and the seller.

23 (4) The broker or sales associate shall make certain that all offers to
24 purchase real property or any interest therein are in writing and contain all
25 of the following specific terms, provisions and statements:

26 (a) All terms and conditions of the real estate transaction as directed
27 by the buyer or seller;

28 (b) The actual form and amount of the consideration received as earnest
29 money;

30 (c) The name of the responsible broker in the transaction, as defined in
31 section 54-2048, Idaho Code;

32 (d) The "representation confirmation" statement required in section
33 54-2085(4), Idaho Code, and, only if applicable to the transaction, the
34 "consent to limited dual representation" as required in section 54-2088,
35 Idaho Code;

36 (e) A provision for division of earnest money retained by any person as
37 forfeited payment should the transaction not close;

38 (f) All appropriate signatures; and

39 (g) A legal description of the property.

40 (5) All changes made to any offer to purchase or other real estate pur-
41 chase agreement shall be initialed and dated by the parties to the transac-
42 tion.

43 SECTION 12. That Section 54-2056, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 54-2056. TERMINATING OR CHANGING LICENSED BUSINESS RELATIONSHIPS. (1)
46 Termination of licensed association. A sales associate who terminates his
47 licensed association with a broker shall provide the broker written notice of
48 the termination no later than three (3) business days after the effective
49 date. A broker who terminates the licensed association of a sales associate
50 shall provide the associate written notice of the termination no later than
51 three (3) business days after the effective date. A licensee's written notice

1 to the commission does not relieve him of the duty to provide written notice
 2 to the other licensee that he is terminating the licensed association. ~~Upon~~
 3 ~~written notice of the termination of a sales associate's licensed business~~
 4 ~~association with a broker, whether by the broker or by the sales associate,~~
 5 ~~the broker shall remove from public view the former associate's license cer-~~
 6 ~~tificate.~~

7 (2) New association. The broker shall submit a written application, in
 8 the form and manner approved by the commission, for each sales associate
 9 licensing with the broker.

10 (3) Termination for cause. Any broker who terminates the association of a
 11 sales associate for the violation of any of the provisions of sections 54-2059
 12 through 54-2065, Idaho Code, shall, within ten (10) business days of the ter-
 13 mination, notify the commission, in writing, of the termination and the facts
 14 giving rise to the termination.

15 (4) Closing a branch office. Immediately upon closing a branch office,
 16 the broker shall provide the commission written notice of the closure advising
 17 of the new status of all licensees licensed with the closed branch. The broker
 18 shall ~~immediately~~ remove from public view ~~the branch office~~ any license cer-
 19 ~~tificate and the license~~ certificates ~~of all licensees licensed in~~ for the
 20 branch office.

21 (5) Property of the broker. Upon termination of the business relationship
 22 as a sales associate licensed under a broker, the sales associate shall imme-
 23 diately turn over to the broker all listing information and listing contracts,
 24 keys, purchase and sale agreements and similar contracts, buyer brokerage
 25 information and contracts, and other property belonging to the broker. A sales
 26 associate shall not engage in any practice or conduct, directly or indirectly,
 27 which encourages, entices or induces clients of the broker to terminate any
 28 legal business relationship with the broker unless he first obtains written
 29 permission of the broker.

30 (6) Location of trust accounts and file records. When an actively
 31 licensed broker changes to a license status other than that of a designated
 32 broker, that individual must notify the commission in writing of the location
 33 of all trust accounts and transaction file records which the broker was
 34 responsible for during the term of licensure as a designated broker. These
 35 records shall be available to the commission for three (3) years following the
 36 year in which each transaction was closed.

37 (7) Terminating relationships between a broker and a sole proprietorship
 38 owned by a person other than the broker. When a broker for a sole proprietor-
 39 ship, owned by a person other than the broker, terminates an association with
 40 the owner, all records and trust account funds shall become the property of,
 41 and be maintained and disbursed by, the terminating broker in accordance with
 42 this chapter and applicable rules promulgated thereunder. The terminating bro-
 43 ker shall deliver, upon request made in writing by the clients and the new
 44 broker of that sole proprietorship, such records and trust account funds per-
 45 taining to that client, to the new broker who shall thereafter have the
 46 responsibility for preservation and disbursement, in accordance with this
 47 chapter and applicable rules promulgated thereunder.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 16499C4

This is the Commission's annual Housekeeping Bill. As in previous years, this bill covers matters emerging from the recent legislative and program development in the continuing education arena. It also responds to changes in licensing system capabilities and record keeping practices. These amendments include:

- (1) changing definitions to treat as "live" courses all real-time, interactive video courses;
- (2) amending sections 54-2016, 54-2018, 54-2020, 54-2040, and 54-2056, to eliminate the requirement for physical license certificates;
- (3) changing the incidental fee amounts established in 54-2020 to "caps," and allowing the Commission to set the same or lower fees in its administrative rules; (no fee increase is being sought);
- (4) amending section 54-2023(5) (c) to eliminate the advance-notice requirement, and to increase the number of credit hours available for attending a Commission meeting;
- (5) amending section 54-2027 to provide that student evaluations of pre-license education courses be treated in the same, efficient manner as student evaluations of continuing education courses; and to restore to the Commission authority over the teaching of courses offered to meet licensing requirements;
- (6) amending the instructor recertification requirement in section 54-2035, to enlarge the means by which an instructor can demonstrate his ability to adequately teach the course;
- (7) amending section 54-2044 to permit record keeping in alphabetical order, as an option to chronological order;
- (8) amending section 54-2045 to delete the requirement that trust accounts be located in Idaho. In 2005, SB 1010 eliminated this requirement from all other sections of the License Law. Section 54-2045 was inadvertently omitted from that bill; and
- (9) amending section 54-2051 to delete the requirement that licensees obtain a signed and dated receipt of all offers to purchase real estate.

FISCAL NOTE

None to the General Fund.

None to IREC.

None to any other state or local political subdivision.

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STATEMENT OF PURPOSE/FISCAL NOTE

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